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Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 16 April 2003 from the Permanent Mission of Denmark to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Denmark to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to transmit to him herewith the report of the Government of Denmark pursuant to paragraph 6 of resolution 1455 (2003) (see annex).

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Annex to the note verbale dated 16 April 2003 from the Permanent Mission of Denmark to the United Nations addressed to the Chairman of the Committee

Report submitted by Denmark pursuant to paragraph 6 of resolution 1455 (2003) of 17 January 2003

In its resolution 1455 (2003), adopted on 17 January 2003, the Security Council called upon all States to submit an updated report to the Committee established by the Council pursuant to resolution 1267 (1999) no later than 90 days from the date of the adoption of the resolution.

The following report — prepared according to the guidance provided by the Monitoring Group on the format of the report — covers action undertaken by the Danish Government as well as action taken within the framework of the European Union.

I. Introduction

1. According to the information available to the Danish Authorities there are presently no known activities by Usama Bin Laden, Al-Qaida, the Taliban and their associates on the territory of Denmark.

However, the threats and challenges of international terrorism are global in nature affecting vital interests of Denmark, the European region and the international community as a whole. The responses to these threats will also have to be global.

II. Consolidated list

2. In order to implement UNSCR 1267 (1999) and UNSCR 1333 (2000) the European Union adopted on 6 March 2001 a Regulation (EC Council Regulation 467/2001) prohibiting the export of certain goods and services to Afghanistan, strengthening the flight ban and extending the freeze of funds and other financial resources in respect of the Taliban of Afghanistan. The Regulation provided for the freezing of all funds and other financial resources belonging to any natural or legal person, entity or body designated by the Sanctions Committee (established pursuant to UNSCR 1267 (1999).

In view of the measures imposed under UNSCR 1390 (2002) the European Union found it necessary to adjust the measures imposed in the Community by repealing Council Regulation 467/2001 and adopted a new Regulation (EC Council Regulation 881/2001) on 27 May 2002, which provides for the freezing of funds and other financial assets or economic resources of individuals, groups, undertakings and entities referred to in the list created pursuant to resolutions 1267 (1999), 1333 (2000) and 1390 (2002).

By means of its Resolution 1452 (2002) of 20 December 2002, the Security Council permitted certain exceptions to the freezing of funds and economic resources the previously mentioned resolutions. In view of Resolution 1452 (2002) the European Union adjusted its earlier imposed measures and adopted the exceptions allowed by the Security Council in EC Council Regulation 561/2003 on 27 March 2003.

In order to implement UN Security Council Resolution 1373(2001), the Danish Parliament adopted a legislative package containing several Anti-terrorism Acts on 31 May 2002, which entered into force on 7 June 2002. The legislation contains a broad range of initiatives aimed at combating terrorism and the financing of terrorism – including all the legislative amendments necessary to comply with international standards and requirements after the events of 11

September. Furthermore, the Anti-terrorism Act contains all the amendments necessitated by the International Convention for the Suppression of the Financing of Terrorism and the UN Security Council Resolution 1373(2001).

By the adoption of the Anti-terrorism Act, special sections on terrorism and the financing of terrorism have been inserted into the Danish Criminal Code, the powers of the national authorities to confiscate money and other property and the investigative possibilities of the police have been improved and the rules on criminal responsibility for legal persons (companies etc.) have been amended. The Anti-terrorism Act also contains new provisions on information exchange between the immigration authorities, the intelligence services and the prosecution authority, denial and revocation of residence permit, tightening of the prohibition on refoulement and fingerprints.

3. It is the experience of the Danish authorities that the lack of personal identifiers, such as passport numbers and dates of birth, regularly constitutes a problem for the full implementation of the 1267 Committee's list. It would save time and make work more effective if these identifiers were available.

4. The Danish authorities have thoroughly investigated all relevant information submitted to the authorities, which might have relation to any of the individuals or entities referred to in the 1267 Committee's list created pursuant to resolution 1390 (2002). So far these investigations have not resulted in any enforcement actions.

5. Due to the risk of compromising possible relevant intelligence or enforcement activities, it is not possible for the Danish authorities to submit names of individuals or entities associated with Usama Bin Laden or members of the Taliban or Al-Qaida that have not been included in the list.

6. The Danish authorities have not yet been faced with legal proceedings initiated by any individuals or entities for inclusion in the list.

7. The Danish authorities have not identified any of the listed individuals as nationals or residents in the Kingdom of Denmark. If the Danish authorities encounter any relevant information about the listed individuals and entities, this information will immediately be forwarded to the Committee.

8. The Anti-Terrorism Act of the Ministry of Justice that was adopted by the Parliament on May 31 2002, includes the following main elements:

- Insertion of a special section on terrorism in the Danish Criminal Code (straffeloven). A large number of the offences typically designated terrorist acts are today punishable under specific provisions of the Criminal Code. Thus, for example, homicide is punishable under section 237 of the Criminal Code regardless of the offender's motive for the act. The

Government wanted to signal more clearly that terrorism in all its forms is unacceptable in a democratic society. Therefore a terrorism section defining the concept of terrorism has been inserted into the Criminal Code. The provision comprises very serious offences committed to disturb the established order and intimidate the population, and the maximum penalty is fixed at life imprisonment. The provision is to implement the EU Framework Decision on combating terrorism.

- Insertion of a special section of financing of terrorism, according to which it is an offence, to a wider extent than today, to provide or arrange for financial support to a terrorist organisation or otherwise to contribute to the promotion of its criminal activities. The maximum penalty is fixed at 10 years imprisonment.

- An amendment to section 77 (a) of the Criminal Code to make it possible to carry out confiscation of money and other property (and not just "objects"), which it is feared will be applied to commit crimes. And at the same time an amendment to sections 802 and 803 of the Danish Administration of Justice Act (retsplejeloven) on seizure to make it possible to seize money and other property (and not just objects) for the purpose of confiscation under section 77 (a) of the Criminal Code. This amendment is necessary as a consequence of the proposed extension of section 77 (a) of the Criminal Code.

- Amendments to the rules on criminal responsibility for legal persons (companies, etc.), repealing the requirement that a violation of the Criminal Code must have been committed to obtain a gain for the legal person. It is further specified that legal persons can be punished for attempted offences to the same extent as natural persons. Finally, it is specified that the period of limitation for the criminal responsibility of legal persons must follow the period of limitation for natural persons. Today, the period of limitation for legal persons is always two years.

III. Financial and economic asset freeze

9. The legal basis to implement the asset freeze in Denmark is described briefly in paragraph 2 and 8. Further information on this aspect is provided in Denmark's report of 16 April 2002 submitted pursuant to paragraph 6 of Security Council resolution 1390 (2002), and to the reports submitted to the Counter Terrorism Committee pursuant to paragraph 6 of Security Council Resolution 1373 (2001) by Denmark.

10. The police in Denmark, The Faroes and Greenland, including the National Security Service (the PET), constitute one national force employed directly by the State. Only the police and prosecution services have the authority to investigate offences, including drug offences, financial tracking and security. Accordingly, the customs authorities must notify the police and prosecution services of all drugs detected at border points.

The need for coordination between the independent law enforcement bodies is therefore somewhat limited in comparison with other countries where several national and local authorities can have independent investigative jurisdiction.

In September 2000 a Steering Group was set up with the participation of the National Commissioner of Police and the Director of Public Prosecutions as well as other high level representatives of the police and public prosecution. A major task of the Steering Group is to co-ordinate efforts to combat organised crime. The Customs and Tax Administration participate in the Steering Group on an ad-hoc basis. In practice, Danish Police monitors organised and other complex types of crime. Danish Police collects information from a variety of different sources, e.g. open sources, international law enforcement co-operation partners and from the different levels of the police force. The information is analysed, collated and evaluated by the National Commissioner of Police. Essential to this system is the close day-to-day contact between local, regional and national police and the National Security Service as well as strategic level.

In the case that a presumed terrorist is expected to cross a Danish border, the National Security Service can relay this information to the police at the relevant border post. Furthermore, the National Security Service can institute a search for a presumed terrorist through the Danish Criminal Register.

The initiatives that have been taken following the terrorist attacks against the United States on 11 September 2001 includes both increased mutual cooperation between national authorities and increased international cooperation, including increased exchange of information. The Danish Civil Security Service works in close cooperation with foreign police, security and intelligence services. Cooperation is carried out both on a general level with a view to monitoring existing threats and in connection with concrete investigations. International cooperation on combating terrorism is carried out both bilaterally and multilaterally, including in the EU, Europol and NATO.

11. Financial institutions are informed of all amendments to the EU Regulation 881/2002 implementing UNSCR 1390 (2002) and are required to search their databases for name similarities with the annexes to the Regulation. Information on name similarities is reported to the National Agency for Enterprise and Housing, administering the EU Regulation, who requests the National Security Service to confirm name identification. If name identification is established the accounts will be immediately frozen and all relevant information reported to the EU Commission and the CTC.

12. No accounts have so far been frozen in Denmark to date on the basis of the EU Regulation 881/2002.

13. Since no funds, financial assets or economic assets have been frozen in Denmark, the Danish authorities have not yet been in a position to release assets according to the exceptions in the EU Regulation 561/2003 implementing UNSCR 1452 (2002).

14. The Danish Bankers Association, the Confederation of Danish Industries, the Danish Federation of Small and Medium-Sized Enterprises and the Danish Insurance Association receive in writing information on all amendments to the EU Regulation. They are required to inform their members accordingly. The members must report to the National Agency for Enterprise and Housing any name similarities or other relevant information. Henceforth, the procedure is as mentioned in paragraph 11

The Danish Act on measures to prevent money laundering and financing of terrorism requires that if a transaction is suspected to be associated with financing of terrorism the bank is obliged to investigate the transaction. If the suspicion cannot be disproved, the Public Prosecutor for Serious Economic Crime shall be informed. Fines may be stipulated for violation of this clause.

Transactions from the account or person in question may only be carried out with the consent of the Public Prosecutor for Serious Economic Crime. The Public Prosecutor for Serious Economic Crime decides, as soon as possible and no later that at the end of the banking day following receipt of notification, whether the funds in question should be seized.
The Public Prosecutor for Serious Economic Crime may demand any information necessary for investigation of the case according to the regulations in the Administration of Justice Act

Denmark is bound by the general European Union regulations on trade and custom tariff. According to these no import restrictions exists on gold and diamonds except for those agreed in the so-called Kimberley-process, where a certification system has been established to prevent trade with diamonds originating from regions and countries affected by war, internal conflict etc. The established system has been implemented in the EU by a number of EC Council regulations.

Gold and diamonds freely can be exported from Denmark unless they are considered to be part of the national Danish cultural treasure. If considered so, export-permits can be applied for at the Committee for Cultural Property.

The public collection of funds in Denmark is regulated in the Public Collections Act (Act number 623 of 15 September 1986 with later amendments). The Act prescribes a monitoring mechanism for the public collection of funds and the use of such funds. Furthermore, the Ministry of Justice has issued an Order regarding Public Collections (Order number 523 of 15 December 1971 with later amendment). The order contains provisions regarding the procedure for public collections and the control of the use of collected funds.

According to section 1, subsection 1, of the Public Collections Act the police must be notified before a public collection of funds is initiated.

Section 2 of the order contains provisions, which specify the requirements for the form and the content of the notification to the police. The notification to the police must state the persons or the institutions etc. responsible for the collection. Furthermore, the notification must state the period of time during which the collection will take place as well as the area, where the collection will take place. The notification must also include information on the manner in which the collection will be performed and information on the purpose for which the collected funds will be used.

It should be noted that the requirement of notification to the police does not imply issue of an authorization or prior approval of the purpose of the collection.

However, public collections can only be arranged in order to support a legal purpose. The notification procedure ensures that the police receives the necessary information on the purpose of the collection and thus will be able to assess the legality of the purpose.

Collected funds can only be used for purposes different from those stated in the notification to the police by authorization from the Ministry of Justice, cf. section 4, subsection 2 of the order.

Proper accounts of all profits and expenses in relation to the collection must be kept, cf. section 5, subsection 1, of the order. The accounts must be revised by a state-authorized public accountant or by a registered accountant. The administrative expenses and the use of the profits must be specified in the accounts. The accountant must state whether the necessary documentation is provided.

Additionally, the order prescribes that a copy of the accounts and a notice stating when and where the publication of the accounts will take place must be sent to the police, cf. section 7.

A breach of the provisions in the Public Collections Act and the Order regarding Public Collection is punishable.

IV. Travel ban

15. With regard to the travel ban provided by paragraph 1 of resolution 1455 (2003) reference is made to the information on legislative and administrative measures made available in Denmark's report of 16 April 2002 submitted pursuant to paragraph 6 of Security Council resolution 1390 (2002). It should in particular be noted that after Denmark has entered the practical Schengen co-operation border control is only carried out at the external Schengen borders in Denmark. The control of the external borders is regulated in the Danish Aliens Act, which has been amended to meet the requirements set in the Schengen acquis.

According to the Danish Aliens Act an alien not issued with a residence permit for Denmark may be refused entry if reasons of public order, relations with foreign powers or reasons of

security or health of the Schengen countries indicate that the alien should not be allowed to stay in Denmark. Such aliens may also be denied a visa for entry into or transit through Denmark. Following the terror acts on 11 September 2001, the control of the Danish borders has been carried out with a special awareness towards the fight against terrorism.

16. The National Commissioner of Police registers on an ongoing basis the persons who appear on the received updated lists and any additional personal information provided by the lists in The Danish Criminal Register. All mentioned persons are registered with a permanent prohibition to enter Denmark and with a note that all applications for entry permits by the registered persons must be presented for consideration by the Danish Ministry of Foreign Affairs.

17. All registered information in The Danish Criminal Register are instantly accessible, via the police's general computer system, for all members of the Danish police force, including the personnel working at the Danish border controls.

18. None of the listed persons have so far been stopped at a Danish border point or while transiting Danish territory.

19. The Danish Consular offices and visa-issuing authorities are provided with the updated list is order to ensure that individuals appearing on the list are not granted visa to Denmark. So far no cases have been identified in which the visa applicants names appeared on the list.

V. Arms embargo

20. Denmark maintains strict export controls on arms transfers to other countries. Denmark is a member of the Wassenaar Arrangement and the European Union and observes their guidelines for evaluating applications for arms exports licenses. The terrorist threat requires export controls to focus more closely on end users and end use, not just recipient countries. To promote this, Denmark supported the inclusion of a terrorist clause in the guidelines of all export control regimes to prevent controlled items from falling into the hands of terrorists. In 2002 it presented a proposal to this effect in the Missile Technology Control Regime, which formed the basis of an agreed text early this year. Also in 2002 Denmark suggested a review of the Wassenaar Arrangement Guidelines on MANPADS (man-portable air defence systems) to make sure they are adequate to prevent terrorist use of such weapons. This review is currently under way.

21. For full information on the legislative measures adopted to criminalize the violation of the arms embargo reference is made to the information on this aspect provided in Denmark's report of 16 April 2002 submitted pursuant to paragraph 6 of Security Council resolution 1390 (2002).

22. For full information on the Danish arms licensing system reference is made to the information on this aspect provided in Denmark's report of 16 April 2002 submitted pursuant to paragraph 6 of Security Council resolution 1390 (2002).

23. For full information on the safeguards pursued by the Danish Authorities to ensure that Danish produced weapons and ammunition will not be diverted to Usama bin Laden, the Al-Qaida organisation or other individuals or entities on the Committee's list reference is made to the information on this aspect provided in Denmark's report of 16 April 2002 submitted pursuant to paragraph 6 of Security Council resolution 1390 (2002).

VI. Assistance and conclusion

24. Denmark is prepared to provide assistance to other States in the drafting of anti-terrorism legislation and in information sharing concerning practice in this area. Reference is in this regard made to the contact list provided in the supplementary report of Denmark of 14 February 2003 (S/2003/274) submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001).

25. Denmark will continue to cooperate actively with its partners and fellow member states in the EU and in the UN to ensure the fullest possible implementation of the sanction regime proscribed by resolution 1455 (2003).